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STATE FOR EUR/UMB, DRL/AE, DRL/IRF, INL-JCAMPBELL
JUSTICE FOR OPDAT-CNEWCOMBE

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TAGS: [PREL](#) [PGOV](#) [PHUM](#) [KIRF](#) [PINR](#) [KDEM](#) [MD](#)
SUBJECT: PROSECUTOR FINES MENORAH-PROTESTING
PRIEST, RE-OPENS INVESTIGATION

Classified by: CDA Marcus Micheli for reasons 1.4
(b) and (d)

REF: 09 Chisinau 0958

¶1. (C) SUMMARY: In a January 12 meeting with the Charge, Prosecutor General Valeriu Zubco argued that Moldovan law gave him no choice but to fine, rather than charge with a crime, the Orthodox priest who desecrated the Jewish menorah on December 13 (reftel). However, based on a previously unconsidered article in the Criminal Code sanctioning "deliberate actions...aimed at inciting national, racial, or religious hostility or discord," Zubco's office has reopened its investigation, while the Ministry of Justice continues to examine whether to deregister the NGO headed by the priest. The GOM, which quickly condemned the incident, has pressed the Moldovan Orthodox Church (MOC) to take steps to sanction the priest. END SUMMARY.

"No Violence and Destruction, No Crime"

¶2. (SBU) We met with Prosecutor General Zubco the day after his office announced that it was fining Anatolie Cibric, the priest who led the anti-Semitic demonstration against the menorah, 600 lei (the equivalent of about \$50). While noting the immediate public condemnation by the Acting President, Prime Minister, and Minister of Justice, among others of the anti-Semitic incident, we stressed to Zubco how important it was that the GOM take this case seriously.

¶3. (C) Zubco introduced Vasile Pascari, the prosecutor in charge of the local prosecutor's office dealing with the case. Pascari said that the police officers had recommended that only administrative action be taken, and the prosecutor's office had agreed after their investigation. Both Pascari and Zubco stressed that the crucial issues under Moldovan law were that the menorah was not physically destroyed and that no violence was used by the demonstrators. Showing photographs taken during the demonstration, Zubco emphasized that the menorah had been dismantled (not destroyed) and transported to another site peacefully. He also stressed that, without the destruction of the menorah, which would have qualified for the criminal offense of vandalism, and without evidence of intent to destroy and incite to violence, no Moldovan court would support a

conviction under Moldova's Criminal Code.

14. (C) Zubco said that therefore, based on these facts, the PGO was only able to charge Cibric under a statute in Moldova's Administrative Code dealing with "the violation of religious sentiments and the profanation of an object of religious reverence." Zubco said his office had imposed the maximum possible fine (600 lei), which, while not much for an American, was for many Moldovans the equivalent of a month's pay. Cibric already was appealing his fine, he added. Zubco also noted that he had discussed aspects of the case with the ministers of Justice and Interior. He also said that the Minister of Interior was investigating the fact that police officers had stood by when the demonstrators removed the menorah.

Zubco Says Priest's NGO Being Investigated

15. (C) Zubco also stressed that the prosecutor in the case had been in close contact with the Jewish community, and was aware that the story would have "echoes" in Washington during the upcoming visit of PM Filat and Foreign Minister Leanca. He assured us that the Ministry of Justice was now investigating Cibric's NGO and his church, and would shut down the NGO if it were determined to be inciting violence. Asked whether certain symbols could be considered incitements to violence, he noted that the Ministry of Interior

determines on a case-by-case basis whether a symbol or image constitutes such incitement.

Foreign Minister Regrets Inadequacy of Moldovan Law

16. (C) In a January 13 meeting, Deputy Prime Minister and Minister of Foreign Affairs Iurie Leanca emphasized to Charge that the GOM strongly condemned the December 13 incident and was committed to preventing repeats. He said he understood that the 600 lei fine would be heavily criticized and agreed that the punishment did not fit the seriousness of the incident.

17. (C) However, Leanca said, per the PGO, the GOM was constrained by weak Moldovan laws in this area. This inadequacy would need to be addressed. Leanca added that the GOM had reached out to the Jewish community, and that the investigation by the Ministry of Justice was continuing. He also said that the GOM had contacted the Moldovan Orthodox Church (MOC), urging its leadership to take steps to rein in Cibric. (Note: In a December 18 website posting, the MOC stated that it disagreed with the methods used in the December 13 protest, but considered that it was inopportune to place a Jewish symbol in a park named for King Stephen the Great, who is a saint in the MOC, and during a holiday -- Chanukah -- that celebrates the victory of Jews over non-Jews. End note.)

Prosecutors Reconsider Case

18. (C) Shortly after this January 13 meeting, we found Article 346 of the Moldovan Criminal (as opposed to Administrative) Code, which states that "deliberate actions...aimed at inciting national, racial, or religious hostility or discord...shall be punished by a fine...or by community service for 180 to 240 hours, or by imprisonment for up to three years." When we contacted Prosecutor

Pascari later that day, he seemed surprised and conceded that he had not considered this Article - - he repeated that he and his colleagues had reviewed the case only on the basis of what the police had presented. He did note that, in light of our January 12 meeting, Zubco had ordered him to initiate an additional review of the Cibric case, and said he would review Article 346. (Note: We also sent the Article to contacts in the MFA and the Prime Minister's office.)

¶9. (C) We contacted Pascari again on January 14. Pascari said that, as a result of their reevaluation of the case, the PGO had reopened its investigation of Cibric's statements and actions, as well as those of his associates, to determine whether charges could be brought under Article 346.

Jewish Community Divided

¶10. (C) We also contacted representatives of the Jewish community for comment. Chief Rabbi Abelski, head of the Orthodox synagogue in Chisinau, told us on January 13 that he had not been following developments, and while condemning Cibric's "barbaric" act, he also stated his disapproval of the "non-religious Jews" who had "acted irresponsibly and chosen the wrong place" to install the menorah. He refused comment on GOM actions or any aftermath of the December 13 incident.

¶11. (C) Alexander Bilinkis, co-chair of the Association of Jewish Organizations (www.jewish.md) and one of the organizers of the menorah dedication, told us on January 14 that he was unhappy with the GOM decision, but even unhappier with the MOC, which took no measures against Cibric. Bilinkis praised Minister of Justice Alexandru Tanase as a strong supporter of the Jewish community, but conceded that under Moldovan law it would "not be easy" for Tanase's

Ministry to deregister Cibric's NGO.

Comment

¶12. (C) While Moldovan law may well turn out to be inadequate in addressing hate crimes such as the December 13 incident, the lack of awareness of Article 346 appears to highlight the lack of institutional capacity of the Prosecutor General's Office. We are heartened by the GOM's strong condemnation of the incident and by the fact that the investigation into Cibric has resumed (and also by the fact that Cibric's NGO recently disassociated itself with the priest, suggesting that the organization is feeling the heat from the authorities.) We will continue to urge the GOM to address the issue, including by amending legislation if needed, and are developing proposals to improve prosecutorial capacities.

Micheli